

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
KEITH SERIALES,
Defendants.

Case No. 1:00-cr-05233-JLT

ORDER DENYING RENEWED REQUEST
TO MAKE RECOMMENDATION THAT
FEDERAL SENTENCE RUN CONCURRENT
WITH ONGOING STATE LIFE SENTENCE
(Doc. 112)

On May 17, 2023, Defendant Keith Seriales filed a document, addressed to the previously assigned judge, U.S. District Judge Anthony W. Ishii, requesting that the Court reconsider its prior determination that Defendant's federal sentence should be served consecutive to the state life sentence he is currently serving in state custody. (Doc. 112.) In light of Judge Ishii's retirement from the bench, the matter was reassigned to the undersigned.

The issue raised here was addressed in a May 9, 2019 order issued by U.S. District Judge Dale A. Drozd in the context of a habeas corpus petition filed by Defendant in *Seriales v. Lizzarraga*, 1:18-cv-01064-DAD-JLT (HC). (See *Lizzarraga* Docket, Doc. 20.) As that order explains, Judge Ishii sent a communication to the Bureau of Prisons in 2018 indicating that Defendant's federal sentence should be served consecutive to his state sentence. (*Lizzarraga* Docket, Doc. 14-2 at 47.) That determination was made after Judge Ishii consulted with this

1 District's Probation Office and considered "the serious nature of Mr. Seriales['] criminal history,
2 including his current state convictions." (*Id.*)

3 Defendant's pending motion requests reconsideration of Judge Ishii's 2018 determination,
4 asking the Court to consider reverting to an earlier, contrary recommendation purportedly made at
5 Defendant's September 7, 2004, federal sentencing hearing. (*See* Doc. 112) As mentioned,
6 Defendant's federal sentencing took place before Defendant's state life sentence was imposed. At
7 the federal sentencing hearing, Judge Ishii generally indicated his thoughts on what the Court
8 would recommend if the state court imposed a life sentence. Specifically, Judge Ishii indicated
9 that he would recommend that Defendant's federal sentence be served in state prison. Judge Ishii
10 specifically declined to make any final determination as to whether the federal sentence would
11 run consecutive or concurrent to the state sentence, leaving that to the state court in the first
12 instance. (*Id.* at 19 ("I can tell you it is the second court that sentences that will make that
13 determination. I don't have any objection or opposition to the time in this case running
14 consecutive to any state sentence you might receive on your pending case if you receive any
15 sentence at all.").) This general discussion in 2004 was not definitive as to the issue of whether
16 the federal sentence should run concurrent or consecutive to the state sentence. When Judge Ishii
17 reviewed that specific question in 2018, having considered the matter in detail, Judge Ishii
18 indicated that the federal sentence should run consecutive to the state sentence. (*Lizarraga*
19 Docket, Doc. 14-2 at 47.) Judge Drozd explained all of this in his order in *Lizarraga*. (*Id.*) A copy
20 of the federal sentencing transcript was presented to the Court in the petition Defendant filed in
21 *Lizarraga*, (*Lizarraga* Docket, Doc. 1), and was discussed by Judge Drozd in the May 9, 2019
22 order (*Lizarraga* Docket, Doc. 20 at 2.) Defendant's present motion offers no grounds for
23 reconsideration of the Court's prior determinations and orders on this subject. The request is
24 **DENIED.**

25
26 IT IS SO ORDERED.
27

28 Dated: November 29, 2023


UNITED STATES DISTRICT JUDGE